

08.11.2024
Item no. 19.
Court No.1.
AB

**Calcutta High Court
In the Circuit Bench at Jalpaiguri**

**M.A.T. 95 of 2024
With
CAN 1 of 2024
CAN 2 of 2024
CAN 3 of 2024**

**The Registrar, Alipurduar University
Vs
Newton Kabiraj & Others**

Dr. Navin Barik,
Ms. Esha Acharyafor the Appellant.

Mr. Subir Kr. Saha,
Mr. Bikash Singhafor the State.

Mr. Bikramaditya Ghosh,
Ms. Supriya Singh,
Mr. Swarup Das,
Mr. Ved Raifor the Writ Petitioner /
Respondent No.1.

Dictated by Arijit Banerjee, J.

In re : CAN 3 of 2024

1. This is an application for condonation of delay of 12 days (as noted by the Stamp Reporter) in presenting the appeal.
2. Causes shown being sufficient, the delay is condoned.
3. CAN 3 of 2024 is disposed of.

**In re : MAT 95 of 2024 + CAN 1 of 2024,
CAN 2 of 2024**

4. CAN 1 of 2024 is an application for stay of operation of the impugned judgment and

order. CAN 2 of 2024 is an application under Order 41 Rule 27 of the Code of Civil Procedure for disclosing additional documents. These two applications and the appeal are taken up for hearing together.

5. The appellant is aggrieved by a judgment and order dated August 22, 2024, passed by a learned Judge of this Court, disposing of WPA 1817 of 2024, being a writ petition filed by the respondent no.1 herein.
6. Alipurduar College was converted into Alipurduar University under the provisions of the Alipurduar University Act, 2018. The respondent/writ petitioner is presently working as a librarian in the said University.
7. Section 64(3) of the Alipurduar University Act, 2018, provided an option to the teaching and non-teaching staff of the then Alipurduar College either to continue their service with Alipurduar University or to seek transfer to any other Government aided college. The respondent/writ petitioner had opted for transfer to a Government aided college.
8. It appears that the request of the writ petitioner was forward to the Director of Public Instructions (in short "DPI"), West Bengal, by the Registrar of the Appellant –

University by letters dated January 11, 2023 and July 8, 2024. With the grievance that the DPI was not taking a decision on the issue, the writ petitioner approached the learned Single Judge. The learned Judge disposed of the writ petition with the following direction:

“In the aforesaid facts, this writ petition is disposed of with a direction upon the Director of Public Instruction, West Bengal to consider the prayer of the petitioner for transfer on the basis of the letters dated January 11, 2023 and July 8, 2024 as expeditiously as possible preferably within a period of one month from the date of communication of this order”.

9. Being aggrieved, the University has come up by way of this appeal.
10. Learned Advocate for the University says that the University has only two employees i.e. the Vice Chancellor and the Registrar. All other employees remain the employees of the State Government. They have not been absorbed under the Act of 2018. The University does not wish to lose the services of the writ petitioner.
11. We find no merit in the so-called grievance of the University. The University cannot insist that the writ petitioner continues as librarian in the University. The appeal is devoid of

merits. The appeal and the connected applications are dismissed.

12. One month's time was granted by the learned Single Judge to the DPI to take a decision on the issue in question. We direct the DPI to take such decision within one month from the date of communication of this order by the writ petitioner to the DPI.

13. Needless to say, any party aggrieved by the decision of the DPI will be at liberty to challenge the same, in accordance with law, before the appropriate forum.

14. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Biswaroop Chowdhury, J.)

(Arijit Banerjee, J.)